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<u>SUPERSEDING INDICTMENT</u>

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
-----x

UNITED STATES OF AMERICA :
-----x

-v.- : S1 12 Cr. 113 (BSJ)

LAURENTIU IULIAN BULAT, RICHARD :
MERCA, and COSMIN MERCA,
-----x

Defendants.
-----x

COUNT ONE

(Conspiracy to Commit Bank Fraud)

The Grand Jury charges:

Background

1. At all times relevant to this Superseding Indictment ("Indictment"), HSBC Bank was a financial institution that provided a broad range of banking and non-banking services, including personal banking services, with deposits insured by the Federal Deposit Insurance Company ("FDIC").

2. At all times relevant to this Indictment, HSBC allowed its customers to access their bank accounts, withdraw cash, and perform other activities at Automated Teller Machines ("ATMs") using cards issued by HSBC ("Bank Cards") together with corresponding personal identification numbers ("PINs"). Bank Cards would typically bear a magnetic stripe on which account-related information had been electronically encoded. In order to access a bank account via an ATM, a customer would insert the Bank Card into a card reader at the ATM, and then enter the

corresponding PIN. HSBC had ATMs in various locations in the New York area, including in Manhattan and Westchester County, New York.

The Scheme to Defraud

3. From at least in or about May 2010, up to and including in or about January 2012, in the Southern District of New York and elsewhere, LAURENTIU IULIAN BULAT, RICHARD MERCA, and COSMIN MERCA, the defendants, together with others known and unknown, used technology, referred to as "Skimming Technology," to steal bank customers' account information, and then withdraw funds from banks using the stolen account information. Members of the fraud ring placed Skimming Devices on ATMs at HSBC bank branches in the New York metropolitan area, including Manhattan, Queens, Westchester County, and Long Island, and then removed them after a period of time, in order to obtain stolen account information. They placed and removed Skimming Devices in this manner on at least 50 different occasions, and in fact did obtain stolen account information, resulting in approximately \$1.5 million in unauthorized withdrawals from customers' accounts.

4. The scheme typically worked as follows:

a. Members of the fraud ring surreptitiously placed two types of devices on ATMs at various HSBC bank branch locations in order to steal account information (collectively "Skimming Devices"):

(1) Fraudulent Card Readers: Members of the fraud ring surreptitiously placed fraudulent devices on card readers on ATMs which masked the actual legitimate card readers (the "Fraudulent Card Readers"). The Fraudulent Card Readers were equipped with technology that recorded the information contained on ATM cards each time bank customers inserted their cards into the Fraudulent Card Readers in order to use the ATMs.

(2) Hidden Pinhole Cameras: Members of the fraud ring also surreptitiously placed hidden pinhole cameras on ATMs (the "Hidden Pinhole Cameras"). The Hidden Pinhole Cameras, which recorded customers' PINs as they were entered onto pinpads at the ATMs, would typically be equipped with a small USB port with a flash memory card that stored video.

b. LAURENTIU IULIAN BULAT, the defendant, was primarily responsible for installing the Skimming Devices and he did so on ATMs at various HSBC bank branch locations throughout the New York metropolitan area, including Manhattan, Queens, Westchester County, and Long Island. On some occasions, COSMIN MERCA, the defendant, also would install Skimming Devices at ATMs.

c. After a period of time, members of the fraud ring,

including RICHARD MERCA and COSMIN MERCA, the defendants, then retrieved the Skimming Devices placed by BULAT and other co-conspirators. Members of the fraud ring then downloaded the information stored on both Skimming Devices, and were then able to associate account numbers retrieved from the Fraudulent Card Readers with the corresponding PINs recorded by the Hidden Pinhole Cameras. They then encoded the stolen account information onto the magnetic stripes of blank plastic cards, such as store gift cards, through the use of a device called a magnetic stripe reader/writer.

d. Members of the fraud ring then used the plastic cards with the encoded stolen account information to make unauthorized withdrawals from the bank accounts that corresponded to the account information encoded onto the cards.

Statutory Allegations

5. From at least in or about May 2010, up to and including in or about January 2012, in the Southern District of New York and elsewhere, LAURENTIU IULIAN BULAT, RICHARD MERCA, and COSMIN MERCA, the defendants, and others known and unknown, willfully and knowingly did combine, conspire, confederate, and agree together and with each other to commit bank fraud, in violation of Title 18, United States Code, Section 1344.

6. It was a part and an object of the conspiracy that

LAURENTIU IULIAN BULAT, RICHARD MERCA, and COSMIN MERCA, the defendants, and others known and unknown, willfully and knowingly would and did execute and attempt to execute a scheme and artifice to defraud a financial institution, the deposits of which were then insured by the FDIC, and to obtain monies, funds, credits, assets, securities, and other property owned by and under the custody and control of such financial institutions, by means of false and fraudulent pretenses, representations, and promises, in violation of Title 18, United States Code, Section 1344.

Overt Acts

7. In furtherance of the conspiracy and to effect the illegal object thereof, LAURENTIU IULIAN BULAT, RICHARD MERCA, and COSMIN MERCA, the defendants, and others known and known, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a. Between on or about April 27, 2010, and May 1, 2010, BULAT placed Skimming Devices on ATMs at an HSBC branch located at 950 Third Avenue in Manhattan on at least four separate occasions. During that same time period, COSMIN MERCA removed the devices placed by BULAT.

b. On or about May 26, 2010, COSMIN MERCA placed Skimming Devices on ATMs at an HSBC branch located at 950 Third Avenue in Manhattan. Later that day, COSMIN MERCA removed the devices he had installed earlier that day.

c. On or about July 16, 2011, BULAT placed Skimming Devices on ATMs at One City Place, White Plains, New York. Later that day, COSMIN MERCA removed the devices placed by BULAT earlier that day.

d. Between on or about July 16, 2011 and July 17, 2011, BULAT placed Skimming Devices on an ATM at an HSBC branch located at 371 Tarrytown Road, White Plains, New York. During that same time period, COSMIN MERCA removed the devices placed by BULAT.

e. On or about July 19, 2011, BULAT placed Skimming Devices on an ATM at an HSBC branch located at One City Place, White Plains, New York.

f. On or about August 15, 2011, BULAT placed Skimming Devices on ATMs at an HSBC branch located at 301 Columbus Avenue in Manhattan. On or about August 17, 2011, RICHARD MERCA removed the Skimming Devices placed by BULAT.

g. On or about September 19, 2011, RICHARD MERCA removed Skimming Devices that a co-conspirator not named herein ("CC-1") had previously placed on an ATM at an HSBC branch located at 50 Fifth Avenue, in Pelham, New York.

h. On or about November 13, 2011, BULAT placed Skimming Devices on an ATM at an HSBC branch located at 650 Lee Boulevard in Yorktown Heights, New York. Later that day, RICHARD MERCA removed the Skimming Devices placed by BULAT.

i. On or about January 5, 2012, BULAT placed

Skimming Devices on two ATMs at an HSBC branch located at 68th Street and 3rd Avenue in Manhattan.

(Title 18, United States Code, Section 1349.)

COUNT TWO

(Bank Fraud)

The Grand Jury further charges:

8. The allegations in paragraphs 1 through 4 and 7 are repeated and realleged as if fully set forth herein.

9. From at least in or about May 2010, up to and including in or about January 2012, in the Southern District of New York and elsewhere, LAURENTIU IULIAN BULAT, RICHARD MERCA, and COSMIN MERCA, the defendants, and others known and unknown, willfully and knowingly did execute and attempt to execute a scheme and artifice to defraud financial institutions, the deposits of which were then insured by the FDIC, and to obtain monies, funds, credits, assets, securities, and other property owned by and under the custody and control of such financial institutions by means of false and fraudulent pretenses, representations, and promises, to wit, BULAT, RICHARD MERCA, and COSMIN MERCA, and others known and unknown, (a) placed Skimming Devices, including Fraudulent Card Readers and Hidden Pinhole Cameras, on ATMs at HSBC bank branches in the New York metropolitan area, including Manhattan and Westchester County; and (b) used information stolen

through the use of the Skimming Devices to withdraw funds from the bank accounts that corresponded to the stolen account information.

(Title 18, United States Code, Sections 1344 and 2.)

COUNT THREE

(Conspiracy to Commit Access Device Fraud)

The Grand Jury further charges:

10. The allegations in paragraphs 1 through 4 are repeated and realleged as if fully set forth herein.

11. From at least in or about May 2010, up to and including in or about January 2012, in the Southern District of New York and elsewhere, LAURENTIU IULIAN BULAT, RICHARD MERCA, and COSMIN MERCA, the defendants, and others known and unknown, willfully, and knowingly did combine, conspire, confederate, and agree together and with each other to violate Title 18, United States Code, Sections 1029(a)(2), 1029(a)(3), and 1029(a)(5).

12. It was a part and an object of the conspiracy that LAURENTIU IULIAN BULAT, RICHARD MERCA, and COSMIN MERCA, the defendants, and others known and unknown, willfully and knowingly, and with intent to defraud, in an offense affecting interstate and foreign commerce, would and did traffic in and use one and more unauthorized access devices during a one-year period, and by such conduct would and did obtain a thing of value aggregating \$1,000 and more during that period, in violation of Title 18, United States Code, Section 1029(a)(2).

13. It was further a part and an object of the conspiracy

that LAURENTIU IULIAN BULAT, RICHARD MERCA, and COSMIN MERCA, the defendants, and others known and unknown, willfully and knowingly, and with intent to defraud, in an offense affecting interstate and foreign commerce, would and did possess fifteen and more devices which were counterfeit and unauthorized access devices, in violation of Title 18, United States Code, Section 1029(a)(3).

14. It was further a part and an object of the conspiracy that LAURENTIU IULIAN BULAT, RICHARD MERCA, and COSMIN MERCA, the defendants, and others known and unknown, willfully and knowingly, and with intent to defraud, in an offense affecting interstate and foreign commerce, would and did effect transactions, with one and more access devices issued to another person and persons, to receive payment and another thing of value during a one-year period the aggregate value of which was equal to and greater than \$1,000, in violation of Title 18, United States Code, Section 1029(a)(5).

Overt Acts

15. In furtherance of the conspiracy and to effect the illegal objects thereof, LAURENTIU IULIAN BULAT, RICHARD MERCA, and COSMIN MERCA, the defendants, and others known and known, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a. Between on or about April 27, 2010, and May 1, 2010, BULAT placed Skimming Devices on ATMs at an HSBC branch located at 950 Third Avenue in Manhattan on at least four

separate occasions. During that same time period, COSMIN MERCA removed the devices placed by BULAT.

b. On or about May 26, 2010, COSMIN MERCA placed Skimming Devices on ATMs at an HSBC branch located at 950 Third Avenue in Manhattan. Later that day, COSMIN MERCA removed the devices he had installed earlier that day.

c. On or about July 16, 2011, BULAT placed Skimming Devices on ATMs at One City Place, White Plains, New York. Later that day, COSMIN MERCA removed the devices placed by BULAT earlier that day.

d. Between on or about July 16, 2011 and July 17, 2011, BULAT placed Skimming Devices on an ATM at an HSBC branch located at 371 Tarrytown Road, White Plains, New York. During that same time period, COSMIN MERCA removed the devices placed by BULAT.

e. On or about July 19, 2011, BULAT placed Skimming Devices on an ATM at an HSBC branch located at One City Place, White Plains, New York.

f. On or about August 15, 2011, BULAT placed Skimming Devices on ATMs at an HSBC branch located at 301 Columbus Avenue in Manhattan. On or about August 17, 2011, RICHARD MERCA removed the Skimming Devices placed by BULAT.

g. On or about September 19, 2011, RICHARD MERCA removed Skimming Devices that a co-conspirator not named herein ("CC-1") had previously placed on an ATM at an HSBC branch located at 50 Fifth Avenue, in Pelham, New York.

h. On or about November 13, 2011, BULAT placed Skimming Devices on an ATM at an HSBC branch located at 650 Lee Boulevard in Yorktown Heights, New York. Later that day, RICHARD MERCA removed the Skimming Devices placed by BULAT.

i. On or about January 5, 2012, BULAT placed Skimming Devices on two ATMs at an HSBC branch located at 68th Street and 3rd Avenue in Manhattan.

(Title 18, United States Code, Section 1029(b)(2).)

COUNT FOUR

(Aggravated Identity Theft)

The Grand Jury further charges:

16. The allegations in paragraphs 1 through 4 and 7 are repeated and realleged as if fully set forth herein.

17. From at least in or about May 2010, up to and including in or about January 2012, in the Southern District of New York and elsewhere, LAURENTIU IULIAN BULAT, RICHARD MERCA, and COSMIN MERCA, the defendants, and others known and unknown, willfully and knowingly did transfer, possess, and use, without lawful authority, a means of identification of another person, during and in relation to the felony violations charged in Counts One through Three of this Indictment, to wit, BULAT, RICHARD MERCA, and COSMIN MERCA, used stolen account information and PINs of bank customers, including customers of HSBC branches in

Manhattan and Westchester County, New York, to fraudulently withdraw money from those bank customers' accounts.

(Title 18, United States Code, Sections 1028A(a)(1), 1028A(b), and 2.)

FORFEITURE ALLEGATION

(As to Counts One though Four)

18. As a result of committing one or more of the bank fraud, access device fraud, or aggravated identity theft offenses alleged in Counts One through Four, LAURENTIU IULIAN BULAT, RICHARD MERCA and COSMIN MERCA, the defendants, shall forfeit to the United States, pursuant to 18 U.S.C. § 982(a)(2), any property constituting, or derived from, proceeds obtained directly or indirectly as a result of such violations, including but not limited to at least approximately \$1.5 million in United States currency, in that such sum in aggregate is property representing the amount of proceeds obtained as a result of the offenses.

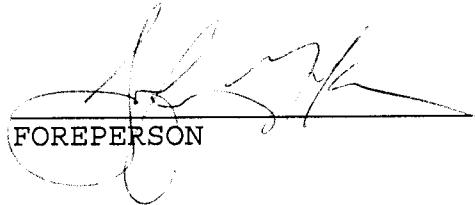
Substitute Assets Provision

19. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;

d. has been substantially diminished in value; or
e. has been commingled with other property which
cannot be divided without difficulty;
it is the intention of the United States, pursuant to 18 U.S.C.
§ 982(b), to seek forfeiture of any other property of said
defendants up to the value of the above-described forfeitable
property.

(Title 18, United States Code, Sections 982,
1344, 1349, 1028A, 1029.)


FOREPERSON



PREET BHARARA
United States Attorney

Form No. USA-33s-274 (Ed. 9-25-58)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v. -

LAURENTIU IULIAN BULAT, RICHARD MERCA,
and COSMIN MERCA,
Defendants.

SUPERSEDING INDICTMENT

S1 12 Cr. 113 (BSJ)

18 U.S.C. §§ 1344, 1349, 1029(b)(2),
1028A and 2.

PREET BHARARA
United States Attorney.

A TRUE BILL

2/10/12
Foreperson.

2/10/12 Filed INDICTMENT

COTY, USM